

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2543
Facsimile: (213) 897-1071

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ALOUIS FELIX COLGAN, PTA
5501 Newcastle Avenue, #40
Encino, CA 91316

Physical Therapist Assistant No. AT 4077

Respondent.

Case No. 1D-2002-63279

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 6, 2004, Complainant Steven K. Hartzell, in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs, filed Accusation No. 1D-2002-63279 against Alouis Felix Colgan, PTA (Respondent) before the Physical Therapy Board of California.

2. On or about November 29, 1995, the Physical Therapy Board of California (Board) issued Physical Therapist Assistant No. AT 4077 to Respondent. The Physical Therapist Assistant was in full force and effect at all times relevant to the charges brought herein and expired on September 30, 2003.

3. On or about January 6, 2004, Elsa Ybarra, an employee of the Complainant Agency, served by Certified Mail a copy of the Accusation No. 1D-2002-63279, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which

1 was and is 5501 Newcastle Avenue, #40, Encino, CA 91316. A copy of the Accusation, the
2 related documents, and Declaration of Service are attached as exhibit A, and are incorporated
3 herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the
5 provisions of Government Code section 11505, subdivision (c).

6 5. On or about January 16, 2004, Elsa Ybarra, an employee of the
7 Complainant Agency, served by Certified Mail a copy of the Accusation No. 1D-2002-63279,
8 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code
9 sections 11507.5, 11507.6, and 11507.7 to respondent's forwarding address obtained from the
10 U.S. Postal Service. A copy of the January 16, 2004, Declaration of Service is attached as
11 exhibit B and incorporated herein by reference.

12 6. On or about January 23, 2004, the U.S. Postal Service returned to the
13 complainant a domestic return receipt bearing the signature of respondent indicating that the
14 accusation packet, including Accusation No. 1D-2002-63279, referred to in paragraph 5 above,
15 had been received by respondent. A copy of the domestic return receipt is attached hereto as
16 exhibit C, and is incorporated herein by reference.

17 7. Government Code section 11506 states, in pertinent part:

18 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
20 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
21 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

22 8. Respondent failed to file a Notice of Defense within 15 days after service
23 upon him of the Accusation, and therefore waived his right to a hearing on the merits of
24 Accusation No. 1D-2002-63279.

25 9. California Government Code section 11520 states, in pertinent part:

26 "(a) If the respondent either fails to file a notice of defense or to appear at the
27 hearing, the agency may take action based upon the respondent's express
28 admissions or upon other evidence and affidavits may be used as evidence

1 without any notice to respondent."

2 10. Pursuant to its authority under Government Code section 11520, the Board
3 finds Respondent is in default. The Board will take action without further hearing and, based on
4 Respondent's express admissions by way of default and the evidence before it, contained in
5 exhibits A, B and C, finds that the allegations in Accusation No. 1D-2002-63279 are true.

6 11. The Board further finds that pursuant to Business and Professions Code
7 section 125.3, the reasonable costs of investigation and enforcement of the case prayed for in the
8 Accusation total \$1,873.00, based on the Certification of Costs contained in Appendix D.

9 DETERMINATION OF ISSUES

10 1. Based on the foregoing findings of fact, Respondent Alouis Felix Colgan,
11 PTA has subjected his Physical Therapist Assistant No. AT 4077 to discipline.

12 2. A copy of the Accusation and the related documents and Declaration of
13 Service are attached.

14 3. The agency has jurisdiction to adjudicate this case by default.

15 4. The Physical Therapy Board of California is authorized to revoke
16 Respondent's Physical Therapist Assistant based upon the following violations alleged in the
17 Accusation:

- 18 a. Conviction of a crime (Bus. & Prof. Code §§ 2660(d), 490 and
19 493);
20 b. Corrupt acts (Bus. & Prof. Code § 2660(l);
21 c. Unprofessional conduct (Bus. & Prof. Code § 2660).

22
23 ORDER

24 IT IS SO ORDERED that Physical Therapist Assistant No. AT 4077, heretofore
25 issued to Respondent Alouis Felix Colgan, PTA, is revoked.

26 Respondent is ordered to reimburse the Board the amount of \$1,873.00 for its
27 investigative and enforcement costs. The filing of bankruptcy by the respondent shall not relieve
28 the respondent of his responsibility to reimburse the Board for its costs. Respondent's Physical

1 Therapy Assistant license may not be renewed or reinstated unless he pays all costs ordered
2 under Business and Professions Code 125.3.

3 Pursuant to Government Code section 11520, subdivision (c), Respondent may
4 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
5 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
6 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
7 statute.

8 This Decision shall become effective on August 19, 2004.

9 It is so ORDERED July 20, 2004

10
11 Original Signed By: Donald Phd., PT, President
12 FOR THE PHYSICAL THERAPY BOARD OF
13 CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

14 Attachments:

15 Exhibit A: Accusation No.1D-2002-63279, Related Documents, and Declaration of Service
16 Exhibit B: Declaration of Service
17 Exhibit C: Domestic Return Receipt
18 Exhibit D: Declaration of E. A. Jones III re Evidence and Certification of Costs

19 DOJ Matter ID No. LA2003AD1239
20 Colgan Decision.wpd
21
22
23
24
25
26
27
28

BILL LOCKYER, Attorney General
of the State of California
E. A. JONES III, State Bar No. 71375
Deputy Attorney General
California Department of Justice
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2543
Facsimile: (213) 897-1071

Attorneys for Complainant

**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2002-63279

ALOUIS FELIX COLGAN, PTA
5501 Newcastle Avenue, #40
Encino, CA 91316

DECLARATION OF E. A. JONES III

Physical Therapist Assistant No. AT 4077

Respondent.

I, E. A. Jones III, declare and certify:

1. I am a Deputy Attorney General employed by the California Department of Justice (DOJ), Office of the Attorney General. I am assigned to the Health Quality Enforcement Section in the Civil Division of the Office of the Attorney General. I have been designated as the representative to certify the costs of prosecution charged by the DOJ and incurred by the Complainant in this case. I make this certification in my official capacity and as an officer of the court.

2. I represent Complainant, who is the Executive Officer of the Physical Therapy Board of California, in the above-titled matter. I was assigned to handle this case in January 2004.

3. As the Deputy Attorney General assigned to handle this case, I have performed a wide variety of tasks in the prosecution of this matter, including but not limited to:

1 (1) obtaining, reading and reviewing the investigative materials and documents; (2) researching
2 relevant points of law and fact; (3) drafting pleadings, correspondence, memoranda, and other
3 case-related documents; (4) consulting with other staff attorneys, supervisory staff, and client
4 staff; (5) communicating with respondent and/or respondent's attorney; (6) consulting with
5 investigators and/or locating and interviewing witnesses; (7) participating in settlement
6 discussions; and (8) preparing for the administrative hearing.

7 4. I am personally familiar with the time recording system and billing practices
8 of the DOJ and the procedures for charging the client agency for the reasonable and necessary work
9 performed on a particular case. Whenever work is performed on a case, it is the duty of the
10 employee to keep track of the time spent and to report that time on DOJ time sheets at or near the
11 time the tasks were performed. Based upon this reported time, the DOJ has billed or will bill the
12 Physical Therapy Board of California for the time spent as of May 25, 2004, on the above-entitled
13 case, which is as follows:

14 Attorney Costs:

15 Fiscal year 2003-2004:	15.25 hours @ \$112.00/hr.:	\$ 1,708.00
	1.25 hours @ \$132.00/hr.:	\$ 165.00
	Total Costs:	\$ 1,873.00

18 5. To the best of my knowledge, the costs set forth in this declaration and
19 certification are correct and were necessarily incurred.

20 I declare under penalty of perjury that the foregoing is true and correct and if
21 called to testify thereto I could competently do so.

22 Executed on May 26, 2004, in the City of Los Angeles, California.

23 Original Signed By:

24 E. A. JONES III
Declarant

Exhibit A

Accusation No. 1D-2002-63279,
Related Documents and Declaration of Service

Exhibit B
Declaration of Service

Exhibit C
Domestic Return Receipt

Exhibit D
Certification of Costs